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7 **Attorneys for Plaintiff**  
8 **PNC BANK, NATIONAL ASSOCIATION**

9 **UNITED STATES DISTRICT COURT**

10 **DISTRICT OF NEVADA**

11 PNC BANK, NATIONAL ASSOCIATION, a  
12 National Banking Association,

13 Plaintiff,  
v.

14 STARFIRE CONDOMINIUM OWNERS'  
15 ASSOCIATION; CHERYL FLEMING; DOES 1  
16 through 10, inclusive; ROES Business Entities 1  
through 10, inclusive; and all others who claim  
interest in the subject property located at 8725 West  
17 Flamingo Road, #113, Las Vegas, Nevada, 89147,

18 Defendants.

19 STARFIRE CONDOMINIUM OWNERS'  
20 ASSOCIATION, a Nevada non-profit corporation,

21 Counterclaimant,  
v.

22 PNC BANK, NATIONAL ASSOCIATION, a  
23 National Banking Association,

24 Counter-Defendant.

25 STARFIRE CONDOMINIUM OWNERS'  
ASSOCIATION, a Nevada non-profit corporation,

26 Third-Party Plaintiff,

v.

27 DANNY FRANK HARRINGTON a/k/a/ DANIEL  
28 F. HARRINGTON, an individual; NAM TU

CASE NO. 2:15-cv-00108-RFB-CWH

**STIPULATION AND ORDER  
TO STAY CASE**

1 HARRINGTON, an individual; REPUBLIC  
 2 MORTGAGE, A DIVISION OF OLD KENT  
 3 MORTGAGE COMPANY, a foreign corporation;  
 4 HOUSEHOLD FINANCE REALTY  
 CORPORATION OF NEVADA, a foreign  
 corporation; DOE INDIVIDUALS I though X,  
 inclusive; and ROE CORPORATIONS I through I,  
 inclusive,

5 Third-Party Defendants.  
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7 **STIPULATION AND ORDER TO STAY CASE**

8 Plaintiff/Counter-Defendant, PNC BANK, NATIONAL ASSOCIATION,  
 9 Defendant/Counterclaimant, STARFIRE CONDOMINIUM OWNERS' ASSOCIATION, and  
 10 Defendant CHERYL FLEMING, either individually or by and through their respective counsel  
 11 of record, hereby stipulate as follows:

- 12 1. This lawsuit is one of hundreds where the parties dispute the effect of a non-judicial  
 foreclosure sale held by an HOA pursuant to NRS 116.3116 et seq. (the "Statute") for an  
 owner's failure to pay HOA assessments.
- 13 2. On August 12, 2016, the Ninth Circuit issued a decision in *Bourne Valley Court Trust v.*  
*Wells Fargo Bank, NA.*, No. 15-15233, slip op. (9th Cir. August 12, 2016), holding that NRS  
 116.3116 et seq. is facially unconstitutional under the due process clause of the Fourteenth  
 Amendment to the United States Constitution.
- 14 3. The Parties dispute the impact that *Bourne Valley* has on the claims in this lawsuit.
- 15 4. Counsel for the petitioner in *Bourne Valley* has stated that he will be filing a petition for re-  
 hearing by August 26, 2016, and in connection therewith, requested that the Ninth Circuit  
 stay publication of the opinion.
- 16 5. The Nevada Supreme Court has set oral argument for September 8, 2016, in *Saticoy Bay LLC*  
*Series 350 Durango 104 v. Wells Fargo Home Mortgage*, Nevada Supreme Court case  
 17 68630, Nevada District Court case A-13-688410-C. This case addresses the same issues as  
 18 *Bourne Valley*.
- 19 6. On information and belief, the Nevada Supreme Court will expedite issuing an opinion in in  
 20 *Saticoy Bay LLC Series 350 Durango 104* that will construe NRS 116.3116 et seq. and

- 1           eliminate substantial uncertainty that currently exists in this area of the law.
- 2      7. Staying this case pending the Nevada Supreme Court and Ninth Circuit's opinion will avoid  
3           premature arguments or briefing on the *Bourne Valley* decision and will enable the Parties to  
4           present argument and evidence to this Court with complete legal authority, thereby  
5           promoting the most efficient use of the Court's and the Parties' limited resources.
- 6      8. Because the oral argument in *Saticoy Bay LLC Series 350 Durango 104* is imminent and the  
7           Nevada Supreme Court is certainly aware of the hundreds of lawsuits that will be affected, if not  
8           resolved, by the Nevada Supreme Court's decision, the stay is not indefinite.
- 9      9. Accordingly, the parties request that all proceedings in this lawsuit are stayed, and all  
10           upcoming deadlines, hearings, and conferences be vacated.
- 11     10. The parties agree that Defendant Cheryl Fleming will maintain the property at issue in its  
12           current condition and will abide by all obligations and responsibilities arising from  
13           Plaintiff's alleged ownership interest in the property, including but not limited to the  
14           payment of all applicable fees, assessments, taxes, and other financial obligations.
- 15     11. The Parties agree that upon written request and reasonable notice, Defendant Cheryl Fleming  
16           shall allow PNC access to the property to inspect and ensure the property is being reasonably  
17           maintained.
- 18     12. The Parties agree that PNC will not pursue foreclosure against the property at issue during  
19           the stay.
- 20     13. The Parties agree that Defendant Cheryl Fleming will not sell, transfer, or convey the  
21           property while this case is stayed.
- 22     14. This stay will expire after the Ninth Circuit issues a mandate in *Bourne Valley* and the  
23           Nevada Supreme Court issues an opinion in *Saticoy Bay LLC Series 350 Durango 104*.
- 24     15. Within fifteen (15) days after the mandate is issued, the parties shall file a notice  
25           informing the Court that the stay has expired and requesting that the Court set a status  
26           hearing.

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1       16. If the Court desires, the parties request that the Court set a status check for approximately 90  
2           days from the date of entry of this Stipulation and Order.

3       Dated: August 31, 2016

Dated: August 31, 2016

4       WOLFE & WYMAN, LLP

ALESSI & KOENIG, LLC

5  
6       By: /s/ Gregory S. Bean

7           Colt B. Dodrill, Esq.  
8           Nevada Bar # 9000  
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13          *Attorneys for Plaintiff/Counter-Defendant,*  
14          *PNC Bank, National Association*

By: /s/ Steven T. Loizzi, Jr.

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*Attorneys for Defendant/*  
*Counterclaimant,*  
*Starfire Condominium Owners'*  
*Association*

15       Dated: August 31, 2016

16       By: /s/ Cheryl Fleming

17           Cheryl Fleming  
18           8725 West Flamingo Road, Unit 113  
19           Las Vegas, NV 89147  
20          *Defendant*

17           **ORDER**

18       IT IS SO ORDERED.

19       DATED: September 2, 2016.



20           RICHARD F. BOULWARE, II  
21           UNITED STATES DISTRICT JUDGE

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